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c 70 The Workmen's Compensation Amendment Act, 1974.

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CHAPTER 70

**An Act to amend
The Workmen's Compensation Act***Assented to June 28th, 1974*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clauses *c* and *d* as re-enacted by the Statutes of Ontario, 1973, chapter 173, section 5, and clause *f* as re-enacted <sup>s. 36 (1),
(c, d, f),
re-enacted</sup> by the Statutes of Ontario, 1973, chapter 46, section 1, of subsection 1 of section 36 of *The Workmen's Compensation Act*, being chapter 505 of the Revised Statutes of Ontario, 1970, are repealed and the following substituted therefor
- (c) where the widow or a widower is the sole dependant, a monthly payment of \$260;
 - (d) where the dependants are a widow or a widower and one or more children, a monthly payment of \$260 with an additional monthly payment of \$70 to be increased upon the death of the widow or widower to \$80 for each child under the age of sixteen years;
 - (f) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole \$260 per month
- (2) Subsection 5 of the said section 36, as amended by the Statutes of Ontario 1973, chapter 46, section 1, and 1973, chapter 173, section 1, is repealed <sup>s. 36 (5),
repealed</sup>
2. Section 41 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is repealed and the following substituted therefor <sup>s. 41,
re-enacted</sup>

Temporary
partial
disability

41.—(1) Where temporary partial disability results from the injury, the compensation shall be,

- (a) where the employee returns to employment, a weekly payment of 75 per cent of the difference between the average weekly earnings of the employee before the accident and an average amount that he is able to earn in some suitable employment or business after the accident; or
- (b) where the employee does not return to work, a weekly payment in the same amount as would be payable if he were temporarily totally disabled, unless he,
 - (i) fails to co-operate in or is not available for a medical or vocational rehabilitation program which would, in the Board's opinion, aid in getting him back to work and in lessening or removing any handicap resulting from his injuries, or
 - (ii) fails to accept or is not available for employment which is available and which in the opinion of the Board is suitable for his capabilities.

Idem

(2) Where subclause i or ii of clause b of subsection 1 applies, the compensation shall be a periodic amount proportionate to the degree of earnings impairment resulting from the accident as determined by the Board, and subsection 4 of section 42 applies.

s. 42,
amended

3. Section 42 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding thereto the following subsections:

Entitlement
of death

(7) A dependant of an employee who was, at the time of his or her death, in receipt of an award for permanent disability which the Board has rated at 100 per cent or, but for his or her death, would have been in receipt of an award for permanent disability at the rate of 100 per cent is entitled to compensation as if the death of the employee had resulted from the compensable disability for which he or she received or would have received the permanent disability award.

Substitution
of payment

(8) The amounts payable under this section shall be revalorized by substituting for the monthly amount payable under this section as of the 31st day of December, 1973, the sum of such amount and the factor of 2 per cent for every

year in which a pension was payable for permanent disability up to and including 1971 in addition to a factor of 4 per cent for each of the years 1972 and 1973, provided that in no case shall the sum of such factors exceed 60 per cent.

(9) Subsection 8 does not apply to a commutation lump sum award, an award under subsection 6 of this section or an award under clause *b* of section 43, which the Board has made under this Part. ^{Exception}

4.—(1) Subclause *i* of clause *b* of section 43 of the said Act, as re-enacted by the Statutes of Ontario, 1973, chapter 46, section 2, is repealed and the following substituted therefor: ^{s. 43 (b) (i), re-enacted}

(i) for permanent total disability, \$260 a month, and

(2) The said section 43, as amended by the Statutes of Ontario, 1973, chapter 173, section 1, is further amended by adding "and" at the end of clause *b* and by adding thereto the following clause: ^{s. 43, amended}

(c) for permanent total disability, not less than the benefits which would have been payable to his dependants under clauses *c*, *d* and *e* of subsection 1 of section 36, under subsections 2, 4 and 10 of section 36 and under section 38 as if he had died from the injury.

5. Subsection 1 of section 44 of the said Act, as amended by the Statutes of Ontario, 1973, chapter 46, section 4, and 1973, chapter 173, section 1, is further amended by striking out "\$10,000" in the amendment of 1973, chapter 46, section 4, and inserting in lieu thereof "\$12,000" ^{s. 44 (1), amended}

6. Clause *b* of subsection 3 of section 51 of the said Act is repealed and the following substituted therefor: ^{s. 51 (3), (b), re-enacted}

(b) on application, an allowance not exceeding \$168 per annum for replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the Board, and not exceeding \$84 per annum in respect of an upper limb prosthesis supplied by the Board,

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| Application | 7. (1) Sections 1, 2, 3, 4 and 6 apply to all payments accruing on and after the 1st day of July, 1974, but nothing therein entitles any person to claim additional compensation for any period prior to the 1st day of July, 1974 |
| Idem | (2) Section 5 applies only for the purposes of computing average earnings in respect of accidents occurring on or after the 1st day of July, 1974 |
| Commence-
ment | 8. This Act comes into force on the 1st day of July, 1974. |
| Short title | 9. This Act may be cited as <i>The Workmen's Compensation Amend-
ment Act, 1974</i> |